

**ASSEMBLY BILL**

**No. 1208**

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**Introduced by Assembly Member Silva**

February 23, 2007

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An act to amend Sections 36522, 36535, 36541, 36622, 36623, 36712, and 36714 of the Streets and Highways Code, relating to improvement districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1208, as introduced, Silva. Improvement districts.

Existing law, the Parking and Business Improvement Area Law of 1989, authorizes local governmental entities to levy assessments on businesses located and operating in a parking and business improvement area. Existing law requires specified proceedings to establish or modify a parking and business improvement area, including the adoption of a resolution by the governing body and a public hearing. Existing law requires these public hearings to be completed within 30 days of the adoption of the resolution indicating the intent to establish or modify a parking and business improvement area.

This bill would delete the 30-day limit for completion of those public hearings.

Existing law, the Property and Business Improvement District Law of 1994, authorizes local governmental entities to levy assessments on properties and businesses within a business improvement district for the purpose of financing certain improvements. Existing law requires the management district plan for a business improvement district to include certain information, including a description of the boundaries of the district. Existing law prohibits the boundaries of a proposed district to overlap with the boundaries of an existing district. Existing

law specifies that this prohibition does not apply to business improvement districts overlapping with other improvement areas. Existing law requires a local governmental entity to provide specified notice and hearing if the governing body proposes to levy an assessment or to impose a new or increased assessment.

This bill would revise the limitation on the overlapping of business improvement districts to instead prohibit the overlapping of proposed and existing property assessment districts. The bill would require different provisions of existing law relating to notice and hearing procedures to be applied to new or increased property assessments and business assessments, as specified.

Existing law, the Multifamily Improvement District Law, provides that upon submission of a written petition, signed by either more than  $\frac{2}{3}$  of the property owners or more than  $\frac{2}{3}$  of the business owners in a proposed multifamily improvement district, the governing body may initiate proceedings to form a multifamily improvement district, as specified.

This bill would authorize a governing body to initiate proceedings to form a multifamily improvement district upon the submission of a written petition signed by either property owners or business owners that would pay more than  $\frac{2}{3}$  of the proposed assessment.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 36522 of the Streets and Highways Code
- 2 is amended to read:
- 3 36522. Proceedings to establish a parking and business
- 4 improvement area shall be instituted by the adoption by the city
- 5 council of a resolution of intention to establish the area. The
- 6 resolution of intention shall do all of the following:
- 7 (a) State that a parking and business improvement area is
- 8 proposed to be established pursuant to this chapter and describe
- 9 the boundaries of the territory proposed to be included in the area
- 10 and the boundaries of each separate benefit zone to be established
- 11 within the area. The boundaries of the area may be described by
- 12 reference to a map on file in the office of the clerk, showing the
- 13 proposed area.
- 14 (b) State the name of the proposed area.

1 (c) State the type or types of improvements and activities  
2 proposed to be funded by the levy of assessments on businesses  
3 in the area. The resolution of intention shall specify any  
4 improvements to be acquired.

5 (d) State that, except where funds are otherwise available, an  
6 assessment will be levied annually to pay for all improvements  
7 and activities within the area.

8 (e) State the proposed method and basis of levying the  
9 assessment in sufficient detail to allow each business owner to  
10 estimate the amount of the assessment to be levied against his or  
11 her business.

12 (f) State whether new businesses will be exempt from the levy  
13 of the assessment, pursuant to Section 36531.

14 (g) Fix a time and place for a public hearing on the establishment  
15 of the parking and business improvement area and the levy of  
16 assessments, which shall be held not less than 20 ~~or more than 30~~  
17 days after the adoption of the resolution of intention.

18 (h) State that at the hearing the testimony of all interested  
19 persons for or against the establishment of the area, the extent of  
20 the area, or the furnishing of specified types of improvements or  
21 activities will be heard. The notice shall also describe, in summary,  
22 the effect of protests made by business owners against the  
23 establishment of the area, the extent of the area, and the furnishing  
24 of a specified type of improvement or activity, as provided in  
25 Section 36524.

26 SEC. 2. Section 36535 of the Streets and Highways Code is  
27 amended to read:

28 36535. (a) The city council shall hold the public hearing at  
29 the time and in the place specified in the resolution of intention.  
30 The public hearing shall be conducted as provided in Sections  
31 36524 and 36525. The city council may continue the public hearing  
32 from time to time, ~~but the public hearing shall be completed within~~  
33 ~~30 days.~~

34 (b) During the course or upon the conclusion of the public  
35 hearing, the city council may order changes in any of the matters  
36 provided in the report, including changes in the proposed  
37 assessments, the proposed improvements and activities to be funded  
38 with the revenues derived from the levy of the assessments, and  
39 the proposed boundaries of the area and any benefit zones within  
40 the area. The city council shall not change the boundaries to include

1 any territory that will not, in its judgment, benefit by the  
2 improvement or activity.

3 (c) At the conclusion of the public hearing, the city council may  
4 adopt a resolution confirming the report as originally filed or as  
5 changed by it. The adoption of the resolution shall constitute the  
6 levy of an assessment for the fiscal year referred to in the report.

7 (d) Notwithstanding subdivision (c), if the primary purpose of  
8 the area is promotion of tourism, the city council may adopt a  
9 resolution confirming the report as submitted by the advisory  
10 board, or may adopt a resolution continuing the program and  
11 assessments as levied in the then current year without change, and  
12 that resolution shall constitute the levy of an assessment for the  
13 fiscal year referred to in the report. As an alternative, the city  
14 council may modify the report and adopt a resolution confirming  
15 the report as modified, but in that case the city council may adopt  
16 the resolution only after providing notice of the proposed changes  
17 as specified in Section 36523 and only after conducting a public  
18 hearing on the resolution as provided in Sections 36524 and 36525.

19 SEC. 3. Section 36541 of the Streets and Highways Code is  
20 amended to read:

21 36541. (a) The city council shall modify the basis and method  
22 of levying the assessment or the boundaries of the area by adopting  
23 an ordinance after holding a public hearing on the proposed  
24 modification.

25 (b) The city council shall adopt a resolution of intention which  
26 states the proposed modification prior to the public hearing required  
27 by this section. The public hearing shall be held not less than 20  
28 ~~or more than 30~~ days after the adoption of the resolution of  
29 intention. Notice of the public hearing shall be published and shall  
30 be mailed to each owner of a business affected by the proposed  
31 modification, as provided in Section 36523. The public hearing  
32 shall be conducted as provided in Sections 36524 and 36525.

33 SEC. 4. Section 36622 of the Streets and Highways Code is  
34 amended to read:

35 36622. The management district plan shall contain all of the  
36 following:

37 (a) A map of the district in sufficient detail to locate each parcel  
38 of property and, if businesses are to be assessed, each business  
39 within the district.

40 (b) The name of the proposed district.

1 (c) A description of the boundaries of the district, including the  
2 boundaries of any benefit zones, proposed for establishment or  
3 extension in a manner sufficient to identify the affected lands and  
4 businesses included. Under no circumstances shall the boundaries  
5 of a proposed *property assessment* district overlap with the  
6 boundaries of another existing *property assessment* district created  
7 pursuant to this part. Nothing in this part prohibits the boundaries  
8 of a district created pursuant to this part to overlap with other  
9 assessment districts established pursuant to other provisions of  
10 law including, but not limited to, the Parking and Business  
11 Improvement Area Law of 1989. *Nothing in this part prohibits*  
12 *the boundaries of a business assessment district created pursuant*  
13 *to this part to overlap with another business assessment district*  
14 *created pursuant to this part. Nothing in this part prohibits the*  
15 *boundaries of a business assessment district created pursuant to*  
16 *this part to overlap with a property assessment district created*  
17 *pursuant to this part.*

18 (d) The improvements and activities proposed for each year of  
19 operation of the district and the maximum cost thereof.

20 (e) The total annual amount proposed to be expended for  
21 improvements, maintenance and operations, and debt service in  
22 each year of operation of the district.

23 (f) The proposed source or sources of financing including the  
24 proposed method and basis of levying the assessment in sufficient  
25 detail to allow each property or business owner to calculate the  
26 amount of the assessment to be levied against his or her property  
27 or business. The plan shall also state whether bonds will be issued  
28 to finance improvements.

29 (g) The time and manner of collecting the assessments.

30 (h) The specific number of years in which assessments will be  
31 levied. In a new district, the maximum number of years shall be  
32 five. Upon renewal, a district shall have a term not to exceed 10  
33 years. Notwithstanding these limitations, a district created pursuant  
34 to this part to finance capital improvements with bonds may levy  
35 assessments until the maximum maturity of the bonds. The  
36 management district plan may set forth specific increases in  
37 assessments for each year of operation of the district.

38 (i) The proposed time for implementation and completion of  
39 the management district plan.

1 (j) Any proposed rules and regulations to be applicable to the  
2 district.

3 (k) A list of the properties or businesses to be assessed, including  
4 the assessor's parcel numbers for any properties to be assessed,  
5 and a statement of the method or methods by which the expenses  
6 of a district will be imposed upon benefited real property or  
7 businesses, in proportion to the benefit received by the property  
8 or business, to defray the cost thereof, including operation and  
9 maintenance. The plan may provide that all or any class or category  
10 of real property which is exempt by law from real property taxation  
11 may nevertheless be included within the boundaries of the district  
12 but shall not be subject to assessment on real property.

13 (l) Any other item or matter required to be incorporated therein  
14 by the city council.

15 SEC. 5. Section 36623 of the Streets and Highways Code is  
16 amended to read:

17 36623. If a city council proposes to levy an assessment that is  
18 consistent with the assessment proposed in the petition of property  
19 owners or businesses submitted pursuant to Section 36621 and  
20 with the management district plan submitted pursuant to Section  
21 36622, the city shall provide notice of the public hearing set  
22 pursuant to paragraph (2) of subdivision (c) of Section 36621 to  
23 the property or business owners as required by Article XIII D of  
24 the California Constitution. The petition shall serve as the  
25 equivalent of a protest ballot procedure for purposes of Article  
26 XIII D. If a city council proposes to levy a new or increased  
27 assessment, or an assessment that is materially different from the  
28 assessment proposed in the petition and management plan *a new*  
29 *or increased property assessment*, the notice and protest and  
30 hearing procedure shall comply with Section 53753 of the  
31 Government Code. ~~However, notwithstanding the provisions of~~  
32 ~~Section 53753 of the Government Code, if the assessment will be~~  
33 ~~levied on businesses, the required notice shall be provided to the~~  
34 ~~businesses that would be assessed, and only assessment ballots~~  
35 ~~submitted by owners of those businesses shall be tabulated in~~  
36 ~~determining whether a majority protest exists. If a city council~~  
37 ~~proposes to levy a new or increased business assessment, the notice~~  
38 ~~and protest and hearing procedure shall comply with Section~~  
39 ~~54954.6 of the Government Code, except that notice shall be mailed~~  
40 ~~to the owners of the businesses proposed to be assessed.~~

SEC. 6. Section 36712 of the Streets and Highways Code is amended to read:

36712. (a) Upon the submission of a written petition, signed by either ~~more than two-thirds of the property owners or more than two-thirds of the business owners in the proposed district~~ *property owners paying more than two-thirds of the proposed assessment or by business owners paying more than two-thirds of the proposed assessment*, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district.

(b) The petition of the property owners or the business owners required pursuant to subdivision (a) shall include all of the following:

(1) A map showing the general boundaries of the proposed district.

(2) A general description of the proposed activities and improvements to be carried out by the district.

(3) A general description of how the proposed district will be financed, and whether bonds are proposed to be issued.

(c) The resolution of intention described in subdivision (a) shall contain all of the following:

(1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or on businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.

(2) Order the preparation of a management district plan by a registered professional engineer certified by the state.

SEC. 7. Section 36714 of the Streets and Highways Code is amended to read:

~~36714. (a) Except as provided in this section, the city council shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.~~

~~(b) However, notwithstanding the provisions of Section 53753 of the Government Code, if the assessment will be levied on businesses and not on property owners, the required notice shall~~

1 be provided to the businesses that would be assessed, and only the  
2 assessment ballots submitted by the owners of those businesses  
3 shall be tabulated in determining whether a majority protest exists.

4 (e)–

5 36714. (a) *If a city council proposes to levy a new or increased*  
6 *property assessment, the notice and protest and hearing procedures*  
7 *shall comply with Section 53753 of the Government Code.*

8 Notwithstanding subdivision (e) of Section 53753 of the  
9 Government Code, the city may not establish the district or levy  
10 assessments if the assessment ballots submitted, and not withdrawn,  
11 in opposition to the proposed assessment exceed one-third of the  
12 total assessment ballots submitted, and not withdrawn, weighting  
13 those assessment ballots by the amount of the proposed assessment  
14 to be imposed upon the identified parcel for which each assessment  
15 ballot was submitted.

16 (b) *If a city council proposes to levy a new or increased business*  
17 *assessment, the notice and protest and hearing procedure shall*  
18 *comply with Section 54954.6 of the Government Code, except that*  
19 *notice shall be mailed to the owners of the businesses proposed*  
20 *to be assessed.*